



Chapter Nine

OUTDOOR ADVERTISING CONTROL

MONTANA RIGHT-OF-WAY
OPERATIONS MANUAL

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Chapter Nine

OUTDOOR ADVERTISING CONTROL

9-1 SIGN CONTROL PROGRAM OVERVIEW

9-1.1 Statutory Requirements, Authority for Control and Administration

To comply with the ***Federal Highway Beautification Act*** that was enacted by Congress in 1965 (Title 23, ***United States Code***), the Montana Legislature passed the ***Outdoor Advertising Act***, effective June 21, 1971 (and as amended in 1975, 1979, 1991 and 1995). The Act is contained in ***Montana Code Annotated (MCA)*** Sections 75-15-101 through 75-15-134. The Statutes are supplemented by administrative rules that are promulgated by the Transportation Commission. The administrative rules are contained in ***Administrative Rules of Montana (Mont. Admin. R.)*** Sections 18.6.201 through 18.6.270.

The Montana Department of Transportation (MDT) has the responsibility for the regulation and control of outdoor advertising along the National Highway System (NHS) or the Primary Highway System, as those systems are defined in ***MCA*** 60-2-125. The Department assigned the Right-of-Way Bureau the overall administration of the program with regard to developing and administering policies and procedures. Within the Right-of-Way Bureau, it is the responsibility of the Outdoor Advertising Control Coordinator (Coordinator) in the Special Programs Section to perform these functions. Activities, including receiving sign permit applications, making recommendations on permit issuance, surveillance and initiating the removal of unlawful signs, are jointly the responsibility of the Districts and headquarters.

9-1.2 Scope of Sign Control Program

The Outdoor Advertising Control Program involves the regulation and control of the location, size, spacing, lighting and maintenance of signs and devices along the State's NHS and remaining Primary Highway System that is not included in the NHS. The Program involves:

- review, approval or rejection of sign permit applications;
- purchase and removal of lawfully erected signs that do not conform with established criteria for location, spacing, size, lighting or other criteria, subject to availability of Federal funds for these purposes;

- inventory of all affected routes to determine sign owners' compliance with regulations of the program; and
- removal of any signs that were unlawfully erected or maintained.

Figures 9-1A (Form RW-827OAC) and 9-1B provide general guidance and other criteria for various types of signs. Forms used in the administration of the Outdoor Advertising Control Program are located in the electronic forms database.

Common Question	On-Premise Sign	Off-Premise Commercial Sign	"Welcome to" Sign	Public Service Sign	Church and Service Club Signs	Cultural Signs	Rural Ranch and Directional Signs (adjacent to private roads)	Rural Ranch and Directional Signs (adjacent to public roads)	Political Signs
Does this sign need to be located on the owner's land?	yes	no	no	no	no	no	no	no	no
Does the sign need an OAC permit?	no	yes	yes	yes	yes	yes	yes	no	no
Does the spacing criteria apply?	no	yes	no	no	no	no	no	no	no
Is an application fee required?	no	yes	yes	yes	yes	yes	yes	no	no
Is a permit fee required?	no	yes	no	no	no	no	no	no	no
Does the permit need to be renewed every 3 years?	no	yes	no	no	no	no	no	no	no
Does the sign need to be located in a zoned or unzoned commercial/industrial area?	no	yes	no	no	no	no	no	no	no
Can the sign height exceed 9.0 m (30 ft) above the roadway?	yes	no	no	no	no	no	no	no	n/a
What is the maximum height of the sign face?	n/a	9.0 m (30 ft)	9.0 m (30 ft)	4.5 m (15 ft)	9.0 m (30 ft)	6.0 m (20 ft)	9.0 m (30 ft)	200 mm (8 in)	n/a
What is the maximum length of the sign face?	n/a	14.4 m (48 ft)	3.6 m (12 ft)	3.0 m (10 ft)	n/a	6.0 m (20 ft)	3.6 m (12 ft)	900 mm (36 in)	n/a
What is the maximum area of the sign face?	n/a	60.5 m ² (672 ft ²)	9.0 m ² (100 ft ²)	2.9 m ² (32 ft ²)	0.75 m ² (8 ft ²)	13.5 m ² (150 ft ²)	2.9 m ² (32 ft ²)	0.18 m ² (2 ft ²)	n/a
Can this type of sign be located on the State highway right-of-way?	no	no	*	no	no	no	no	No	no

* "Welcome to" signs are discouraged within the right-of-way; however, they may be placed within the right-of-way at the discretion of the District Administrator.

REGULATIONS AFFECTING VARIOUS TYPES OF SIGNS
Figure 9-1A

On-Premise Sign:	Sign can only advertise activities that take place at the location of the sign.
Off-Premise Sign:	Spacing Requirements – Interchange Spacing: Must be in a zoned commercial/industrial area or in an unzoned commercial/ industrial area. In unzoned areas, only 2 signs may be permitted from a qualifying activity, and they must be on the same side of the highway and within 180 m (600 ft) of the activity.
Noncommercial Signs:	(“Welcome to . . .” or public service.) Considered on-premise if they are located on sign owner’s property.
Church and Service Club Signs:	No more than 4 signs within 8 km (5 miles) of the meeting place. Allow for name of organization and time and place of meeting only.
Cultural Signs:	No descriptive words or phrases; no pictures or photographic representations; no more than 2 signs from same direction along the Interstate, or 1 from same direction along a Primary highway. Must be within 120 air km (75 air miles) if along an Interstate, or within 80 air km (50 air miles) if along a Primary highway. Cannot be located within 600 m (2,000 ft) of an Interstate interchange, rest area, parkland or scenic area.
Ranch and Rural Directional Signs:	(Adjacent to a private road.) Can be placed along a private access road to the property and be outside a zoned or unzoned commercial/industrial area. Cannot be located adjacent to an Interstate route and will not be intended to direct traffic from an Interstate interchange. (Adjacent to a public road.) With the consent of the appropriate governing authority, may be placed within the right-of-way of the intersecting public road. Can only be 200 mm x 900 mm (8 in x 36 in) sign.
Political Signs:	Will not be erected more than 90 days before an election and must be removed within 30 days after the election.

GENERAL GUIDANCE FOR SIGNS

Figure 9-1B

9-2 AUTHORIZED SIGNS

9-2.1 Signs Requiring Permits

All outdoor advertising signs located on controlled routes that advertise activities, services or products that are located in areas other than the location of the sign must be permitted by the Department in accordance with applicable rules and regulations. If the Bureau determines that an on-premise sign also contains advertising of products or services that are not conducted on the premises, the entire sign structure is subject to permitting requirements and the fees are based on the entire sign area. In cases where a sign is visible from more than 1 controlled route, the sign must meet permitting requirements of all affected routes.

In rural areas, the Department's jurisdiction affects all outdoor advertising signs that are erected with the purpose of having a message that is visible from the controlled route (**MCA** 75-15-103(16), 75-15-111, 75-15-111(3), 75-15-112(1)).

In urban areas, the Department's permit jurisdiction affects signs that are erected within 200 m (660 ft) of the nearest edge of the right-of-way and are visible from the controlled route. Signs that are beyond 200 m (660 ft) from the nearest edge of the right-of-way and are visible from the controlled route are not permitted. These signs will be determined to be unlawful (**MCA** 75-15-103(15), 75-15-111, 75-15-112(1)). The urban areas of Montana, as defined in **MCA** 60-2-125(6), are Billings, Great Falls, Missoula, Helena, Kalispell, Lewistown, Laurel, Bozeman, Livingston, Sidney, Havre, Butte, Miles City and Anaconda.

The following signs may be permitted outside of zoned or unzoned industrial and commercial areas subject to the provisions in Section 9-4:

- signs advertising a church, service club or youth organization provided they meet the requirements of **Mont. Admin. R.** 18.6.241;
- ranch and rural directional signs along the Primary Highway System provided they meet the requirements of **Mont. Admin. R.** 18.6.242;
- signs advertising the cultural exhibits of nonprofit historical or arts organizations provided they meet the requirements of **Mont. Admin. R.** 18.6.244; and
- noncommercial "Welcome to" and public service signs provided they meet the requirements of **Mont. Admin. R.** 18.6.245.

(**MCA** 75-15-111)

9-2.2 Qualifying Commercial and Industrial Activities

As defined in Section 9-5.2, a commercial and industrial zone is an area that is reserved for business, commerce or trade by local zoning ordinances, regulations or enabling State legislation. Local spot, strip or temporary zoning will not be recognized for permitting outdoor advertising (**MCA 75-15-103(2)**). An applicant for a permit must provide the Department with a written approval from the appropriate governing body verifying the zoning classifications before the Department reviews and considers an application (**Mont. Admin. R. 18.6.212(c)**).

Section 9-5.2 defines an unzoned commercial or industrial area as an area that is not zoned by State or local law, regulation or ordinance that is occupied by 1 or more industrial or commercial activities other than outdoor advertising. The permissible commercial or industrial area is on lands along the highway for a distance of 180 m (600 ft) in either direction immediately adjacent to the activities (**MCA 75-15-103(14)**).

Commercial or industrial activities are defined as those activities that are generally recognized as commercial or industrial by zoning authorities. None of the following activities are considered commercial or industrial:

- agricultural, forestry, grazing, farming and related activities, including wayside fresh produce stands;
- transient or temporary activities;
- activities that are not visible year-round from the main-traveled way;
- commercial activities that are occupied and open to the public for less than 20 hours per week and/or that have been in business less than 1 year;
- activities that have been in business less than 1 year;
- activities that are conducted in a building that is used principally as a residence;
- railroad tracks and minor sidings; and
- activities that are more than 200 m (660 ft) from the nearest edge of the right-of-way.

(**MCA 75-15-103(1)**)

The permanent buildings or improvements comprising a business (activity) intended to serve the traveling public must be clearly visible and easily recognizable as a

commercial or industrial activity. Signs, displays or other devices may be considered in the determination of visibility. To qualify under the regulatory definition, a commercial activity must be occupied and open to the public during regularly scheduled hours in excess of 20 hours per week. Commercial and industrial activities must be in business for at least 1 year prior to being considered a qualifying activity. Seasonal, but not temporary or transient, activities may be considered as qualifying activities.

The extent of the property used to qualify an activity includes its buildings, parking area and incorporated landscaped area, but does not include vacant land, land used for unrelated activities, driveways or land that is separated by other ownerships or roadways. Industrial or commercial activities that are located either partially or totally within a zoned area may not be used to qualify an adjacent unzoned commercial or industrial area. If the activity is more than 200 m (660 ft) from the nearest edge of the highway right-of-way and is accessed by an approach and road from the highway, then any sign, landscaped area or appurtenance associated with the activity adjacent to the highway approach and access road will not qualify the activity.

A commercial or industrial activity that is established primarily for the purpose of qualifying an area for the displaying of outdoor advertising will not create an unzoned commercial or industrial area. It is presumed that the activity is primarily for the purpose of qualifying the area for outdoor advertising if the activity is not reasonably accessible to the public, if the activity is not connected to 1 or more utilities, if no business is actually conducted on the premises, or if the activity has been in business less than 1 year (**Mont. Admin. R. 18.6.203**).

In the event that the existence of a qualifying activity is unclear, the person reviewing the permit application should contact the coordinator in the Special Programs Section for advice and/or determination. The coordinator may choose to convene an ad hoc review committee that consists of 2 right-of-way agents and the coordinator. The committee will determine qualifying activities on a case-by-case basis.

If it is determined that an activity qualifies to create an unzoned commercial or industrial area, a maximum of 2 signs will be permitted from the activity, located on the same side of the highway as the qualifying activity (**Mont. Admin. R. 18.6.203(d)**).

9-2.3 Restricted Areas for Outdoor Advertising

The Department will not issue outdoor advertising permits in certain areas. The prohibited areas are described below. The outdoor advertising control coordinator will provide specific control zone maps showing the restricted area on request.

9-2.3.1 Interstate Interchange Control Zone

The issuance of outdoor advertising permits is prohibited within 150 m (500 ft) from the taper of all ramps to or from the main-traveled way of the Interstate highway, and within 150 m (500 ft) of any intersecting roadway within the interchange area. This area is determined to be a “safety zone” (**MCA** 75-15-103(6), **MCA** 75-15-111(1)(a), **MCA** 75-15-113(9), **Mont. Admin. R.** 18.6.202(4)).

9-2.3.2 Interstate Intersection At-Grade Control Zone

The issuance of outdoor advertising permits is prohibited within 150 m (500 ft) of an Interstate intersection at-grade area. The 150 m (500 ft) is measured along the Interstate from the beginning or ending of the pavement widening at the exit from, or entrance to, the main-traveled way. Areas include, but are not limited to, rest areas, parking areas, weigh stations, chain-up areas and scenic/historic areas (**MCA** 75-15-111(1)(a), **MCA** 75-15-113(9), **Mont. Admin. R.** 18.6.202(4)).

9-2.3.3 Restricted Areas Outside of Incorporated Cities or Towns

The issuance of outdoor advertising is prohibited within 150 m (500 ft) of public parks, public forests, public playgrounds, scenic areas or cemeteries. Distances will be measured from the point where these lands are adjacent to the highway. This restriction does not apply within the incorporated boundaries of cities or towns (**MCA** 75-15-113(8)).

9-2.4 Nonconforming Signs

9-2.4.1 Definition and Classification

A “nonconforming sign” is a sign that was lawfully erected but that does not comply with the provisions of State law or State regulations passed at a later date, or that fails to comply with State law or State regulations due to changed conditions. Illegally erected or maintained signs are not nonconforming signs. There are 2 categories of nonconforming signs:

1. Class I. Signs that were legally conforming on April 21, 1995, but became nonconforming after that date because they no longer complied with the requirements of **MCA** 75-15-113. Class I also includes signs that were classified nonconforming by the Department prior to April 21, 1995.

2. Class II. Signs in unzoned commercial or industrial areas that were lawfully conforming on April 21, 1995, and still meet the requirements of **MCA** 75-15-113, but that exceed the restrictions of **MCA** 75-15-111(1)(e).

The Department uses the following criteria to determine lawfully conforming signs in unzoned commercial and industrial areas:

1. The sign must meet the size requirements of **MCA** 75-15-113.
2. The sign must be on the same side of the highway as the qualifying activity.
3. They will be the first 2 signs by date of permit issuance.
4. If the date of permit issuance cannot be determined, or if more than 2 signs were permitted on the same date, the 2 signs closest to the principal place of business of the qualifying activity, when measured at right angles along the centerline of the highway, will be classified as lawfully conforming signs.

All other signs in unzoned commercial and industrial areas that were lawfully conforming on April 21, 1995, are classified as Class II nonconforming signs.

9-2.4.2 Restrictions on Lawful Nonconforming Signs

Although nonconforming signs are lawfully permitted, certain restrictions apply. In the event that a permit is not renewed in a timely manner, or if a permit is canceled, the sign owner must remove the sign structure without compensation from the Department. New permits cannot be issued for nonconforming signs and signs in conforming areas that do not meet required size, lighting, height and spacing requirements under current State law and State regulations.

Restrictions on the repair and maintenance of nonconforming signs, and on signs in conforming areas that do not meet required size, lighting, height and spacing requirements, are as follows:

1. Class I. Class I signs may be repaired and maintained, but only in conformity with the following limitations:
 - a. Only repair and maintenance as is reasonably necessary to maintain the sign's appearance and structural integrity may be performed. The value of new materials used in the maintenance of a sign during 1 calendar year

may not exceed 30% of the value of all of the materials that would be required to replace the sign with a new one.

- b. Signs that are blown down, vandalized or otherwise damaged may be re-erected provided the sign is not damaged in excess of 50% of its replacement cost. The work must be accomplished within 6 months or the permit may be canceled.
 - c. In no case may the repair, maintenance or re-erection of nonconforming signs, or signs in conforming areas that do not meet required size, lighting and spacing criteria result in an increase in the area used to display advertising copy or an increase of height, width or area over the height, width or area of the sign when it was last permitted.
 - d. In no case may the repair, maintenance or re-erection of a sign result in a substantial upgrading of the type or value of the sign. For example, a change from wood to steel structure or a change from unilluminated to illuminated would constitute a substantial upgrading. The addition of "cut outs" or "pop ups" to the sign face is considered an increase in the area used to display advertising copy and is prohibited.
 - e. The Department will notify the sign owner of a violation and may allow a permittee who has increased the dimensions or has lighted a previously unlighted Class I nonconforming sign a reasonable time to restore the sign as originally permitted. If the sign is not restored within the time allowed, the dimensions are increased, or the sign is lighted a second time, then the permit will be canceled immediately (**Mont. Admin. R.** 18.6.251(1)).
2. Class II. Class II signs may be repaired and maintained, but only in conformity with the following limitations:
- a. The size of the sign may not be increased.
 - b. The sign may be maintained each year if the value of the materials used in the maintenance does not exceed 75% of the value of all of the materials required to replace the sign with a new one.
 - c. The sign may be replaced, if damaged, at up to and including 100% of its replacement cost.
 - d. The sign may be illuminated.

- e. Wood poles may be replaced with steel poles provided the size and number of poles remain the same or less.

Any request by a sign owner for Department approval of substantial maintenance or repair of a damaged sign, or request to illuminate an unilluminated sign, will be referred to the coordinator for determination. If the coordinator approves the request, an agreement will be executed between the Department and the sign owner to determine sign value following the maintenance, repair or illumination of the structure. Any increased sign value resulting from maintenance, repair or illumination of a Class II nonconforming sign will be deducted from compensation to the sign owner if the sign is purchased by the Department at a later time.

If the Department approves the request to perform work on a sign, the sign owner will complete and return, on or before the required date, a Sign Owner Certificate of Completion (Form RW-A1OAC, Schedule C). Failure to return the completed form may cause cancellation of the permit. As a courtesy, the Department will advise the sign owner to check with local government authority to ensure that the repairs, maintenance or illumination of the sign meets any lawful ordinance, regulation or resolution.

(*MCA* 75-15-103(9), *MCA* 75-15-111(4), *Mont. Admin. R.* 18.6.251(2))

9-2.5 Signs Not Requiring Permits

Signs located within, or adjacent to, the right-of-way of the NHS or remaining Primary Highway System and visible from the highway that do not require permits and are not subject to the provisions of the ***Outdoor Advertising Act*** include:

- signs advertising the sale or lease of property on which they are located,
- directional or other official traffic signs located within the highway right-of-way,
- “on-premise” signs,
- political signs, and
- LOGO and TODS signs located within the highway right-of-way and authorized by the ***Montana Motorist Information Act*** (*MCA* 60-5-501 et seq.).

(*MCA* 75-15-111, *Mont. Admin. R.* 18.6.246)

9-2.5.1 On-Premise Signs

An “on-premise” sign is defined as a sign that is erected on property for the sole purpose of advertising its sale or lease, or of advertising an activity on the property (*Mont. Admin. R.* 18.6.202(8)). Some signs that appear to be on-premise may, in reality, be advertising signs that are subject to the provisions of outdoor advertising regulations. Careful inspection must be made of all signs that appear to be on-premise to determine if their status is valid.

If it is determined that an on-premise sign also contains advertising of products or services that are not available on the premises, the entire sign structure is subject to permitting requirements. A sign is considered on-premise if it meets the following requirements:

1. Location. The sign is located on the same premises as the activity or property being advertised. The premises on which the activity is conducted is determined by physical facts rather than property lines. Generally, it is defined as the land that is occupied by the buildings or other uses that are necessary or appurtenant to the activity, including parking or adjacent landscaped areas. The following will not be considered a part of the premises on which the activity is conducted, and any signs located on this land will not be considered on-premise signs and will be subject to outdoor advertising regulations:
 - a. Land that is not used as an integral part of the principal activity. This includes, but is not limited to, land that is separated from the activity by a roadway, highway or other obstruction and is not used by the activity, and extensive undeveloped highway frontage contiguous to the land that is actually used by a commercial facility, even though it might be under the same ownership.
 - b. Land used for a purpose unrelated to the advertised activity. For example, land that is adjacent to or adjoining a service station but is devoted to the raising of crops, residence or farmstead uses or other commercial or industrial uses having no relationship to the service station activity would not be part of the premises of the service station, even though it might be under the same ownership.
 - c. Land occupied solely by structures or uses that are only incidental to the principal activity, and that serve no other purpose than to attempt to qualify the land for signing purposes.

- d. A sign site located at or near the end of a narrow strip contiguous to the activity, resulting in a sign site that is not considered part of the premises on which the activity being advertised is conducted. A narrow strip will include any configuration of land that cannot be put to any reasonable use related to the activity other than for sign purposes. The strip of land will not be considered an on-premise site if it is non-buildable land, including swampland, marshland or wetlands, or if the strip is a roadway other than the entrance to or from the advertised activity.
 - e. Sign sites on adjacent land held by easement or other lesser interest than the premises where the advertised activity is located.
2. Purpose. The purpose of an on-premise sign is to identify the activity, products or services on the premises, or the sale or lease of the property on which the sign is located. The following signs are not considered on-premise:
- a sign that produces rental income;
 - a sign that exclusively contains brand or trade names incidental to the activity (e.g., a large billboard located on the corner of the property along the highway advertising candy or tobacco products available from a vending machine at the business location);
 - a sign that advertises activities that are conducted on the premises, but that also advertises activities that are not conducted on the premises (e.g., “Carol’s Café,” the on-premise business, and also “Carol’s Motel – 3 Blocks Ahead”); and
 - a sale or lease sign that also advertises a product or service that is not located on and that is unrelated to the business or premises for sale or lease (e.g., “This Property for Sale – More information at Carol’s Motel 20 Air-conditioned Rooms – 3 Blocks Ahead”).

It is important to note that a sign that is located along the highway that advertises a business located more than 200 m (660 ft) from the highway may be considered “on-premise” but may not be considered to qualify the business activity for off-premise signs in unzoned commercial or industrial areas (**Mont. Admin. R.** 18.6.203(b)(c)).

9-2.5.2 Motorist Information Signs

The purpose of this program is to provide for the installation of motorist information signs giving specific information of interest to the traveling public regarding motorist services that are conveniently accessible from the Interstate (NHS) and Primary highways within the State. Specific motorist information (LOGO) signs inform the motoring public of traveler services conveniently accessible from Interstate highways (NHS). Tourist-Oriented Directional Signs (TODS) give travelers and tourists notice of services accessible from primary highways within Montana. The signs are intended to be directional and not an advertising medium for businesses.

The governing statutes and administrative rules are found in **MCA** 60-5-501 to 60-5-527, inclusive, and **Mont. Admin. R.** 18.7.301 to 18.7.336, inclusive. LOGO and TODS specifications are found in the Federal Highway Administration **Manual on Uniform Traffic Control Devices** (MUTCD), and in Part III, Chapter 18 of the **MDT Traffic Engineering Manual**.

Pursuant to **MCA** 60-5-504 and 505, the Department granted a Franchise Contract, dated July 19, 1991 to:

Montana Motorist Information Sign Group
(a division of LOGO Signs of America)
P. O. Box 1622
St. Cloud, MN 56302-1622

The Franchise Contract is in the possession of the LOGO Sign Coordinator within the Special Programs Section of the MDT Right of Way Bureau.

Under the terms of the Franchise Contract:

1. The parties agree that all costs of surveys, promotion, manufacturing, installation, operation, maintenance, and any other costs related to the LOGO and TODS programs, including the Department's administrative costs, are to be paid by the Franchisee, and not by the Department.
2. The Department grants the exclusive right to the Franchisee to construct and to operate a LOGO program on the right-of-way of Interstate highways, and a TODS program on the right-of-way of the Primary highways for a term of 6 years. The 6-year term of the agreement commenced on July 19, 1991 and terminated on July 31, 1997. The contract will be extended three 5-year terms if not terminated under provisions of the Franchise Contract. The first Contract Extension was executed by the Department and is effective until July 31, 2002.

3. The Department has the following rights and responsibilities for the LOGO and TODS programs:
 - a. The Department will assist the Franchisee to the extent permitted by law in obtaining required permits and approvals from other State, Federal and governmental agencies; however, the Department will not ensure the issuance of permits or other approvals from any other governmental agency.
 - b. The Department will review and approve the lease agreement form.
 - c. The Department will periodically review signs for compliance with requirements.
 - d. The Department will review quarterly and annual reports submitted by the Franchisee.
 - e. The Department will temporarily cover or remove any and all LOGO or TODS signs during maintenance or construction operations, or whenever the Department considers it to be in the best interest of the Department or the traveling public. The Department is not required to give advance notice, but the appropriate District will notify the Franchisee when the signs are removed or covered for an extended period. The Department will uncover or replace the affected signs at the end of the period, however, any relocation of signs made necessary by highway construction or reconstruction will be at the sole cost of the Franchisee and will be completed by the Franchisee, upon notification by the Department.
 - f. The Department will review and approve or deny fee changes for the programs.
 - g. The Department will review and approve draft copy of marketing pamphlets, brochures, etc.
 - h. The Department will bill the Franchisee on a quarterly basis for the Department's costs in administering the programs.

9-2.6 Criteria for Permitted Advertising Signs

Signs may not be permitted, erected or maintained that:

- exceed 60.5 m² (672 ft²) in area, including border and trim but excluding base or apron, supports and other structural members;
- exceed 14.4 m (48 ft) in length (width);
- exceed 9.0 m (30 ft) in height, when measured at a right angle from the surface of the roadway at the centerline of the Interstate or Primary highway, if the Department is unsure of the height of a sign structure, it is the responsibility of the applicant or sign owner to prove that the structure does not exceed the height restriction; or
- exceed 2 facings visible and readable from the same direction on the main-traveled way. Whenever 2 facings are so positioned, neither may exceed 29.3 m² (325 ft²).

Double-faced, back-to-back and V-type signs are considered to be a single sign or structure. When 2 or more faces, back to back, are supported by separate structures, each is considered to be a single sign (**MCA** 75-15-113, **Mont. Admin. R.** 18.6.231).

9-2.7 Sign Spacing

No 2 signs may be spaced less than 150 m (500 ft) apart adjacent to an Interstate highway or limited-access Primary highway, except that signs may be closer than 150 m (500 ft) if they are separated by buildings or other obstructions in a manner that only 1 sign located within the 150-m (500-ft) spacing distance is visible from the highway at any 1 time. Directional or other official traffic signs, signs advertising the sale or lease of property on which they are located, on-premise signs, political signs or LOGO signs will not be considered for the purpose of determining spacing requirements (**MCA** 60-5-501, et seq., 75-15-111).

Outside of an urban area, signs may not be located within 150 m (500 ft) of public parks, public forests, public playgrounds, cemeteries or scenic areas designated by the Department or other State agency having and exercising this authority. This 150-m (500-ft) spacing restriction does not apply within incorporated areas.

Adjacent to Primary highways, the location of signs between streets, roads or highways entering or intersecting the main-traveled way will conform to the following minimum spacing criteria:

1. Where the distance between centerlines of intersecting streets or highways is less than 300 m (1,000 ft), a minimum spacing between signs of 45 m (150 ft) may be permitted between the intersecting streets or highways.
2. Where the distance between centerlines of intersecting streets or highways is 300 m (1,000 ft) or greater, minimum spacing between signs is 90 m (300 ft).
3. "Intersecting" is defined as roads, streets and highways that enter directly into the main-traveled way of the Primary highway. Alleys, undeveloped rights-of-way, private roads and driveways are not regarded as intersecting streets, roads or highways.

(*MCA* 75-15-113, *Mont. Admin. R.* 18.6.231(1))

9-2.8 Illumination

Signs may be illuminated subject to the following:

1. Signs that contain, include or are illuminated by a flashing, intermittent or moving light or lights are prohibited, except those giving public service information, including time, date, temperature, weather or similar information.
2. Signs that are not effectively shielded to prevent beams or rays of light from impairing the vision of a driver are prohibited.
3. Signs may not be illuminated if the illumination may interfere with the effectiveness of, or obscure, any official sign, device or signal.
4. Signs may not imitate or resemble any official traffic control device or railroad sign or signal, as provided in *MCA* Section 61-8-210.

(*MCA* 75-15-113(10))

9-2.9 Issuing New Sign Permits

The Districts initially handle all applications for new sign permits. Once a District receives and processes an application in accordance with Section 9-2, it forwards the application and related materials to the coordinator. The coordinator makes the final determination of approval or denial of an application for a sign permit.

9-2.9.1 Permit Application Analysis

An applicant initiates an application for a sign permit by fully completing an Outdoor Advertising Permit Application (Form RW-816A1OAC). The submission to the District must include a completed application form, a location map of the proposed sign site (see Form RW-816 A1OAC, Schedule A) and the nonrefundable initial application fee. The District will not proceed with analysis of an application that is not completed in full. The application must include:

- sign owner's and landowner's names, addresses and telephone numbers.
- description of the sign structure, including the width and height of the sign face(s) and the height of the sign structure.
- identification of the design of the proposed sign.
- specification whether the sign will be illuminated.
- reasonable estimate of the cost of construction. The breakdown of the labor and material costs is required. If the right-of-way agent is not satisfied with the estimated costs, proof of actual costs of labor and materials may be required following completion of construction. Issuance of the permit plate may be withheld pending proof of costs of construction.
- zoning verification for the sign site from the appropriate local authority. It is imperative that the proposed sign meets local government zoning or land use control. Department personnel are not allowed to interpret local zoning or land use requirements for the applicant. It is important for the applicant to understand that issuance of a permit is subject to more restrictive local government zoning, ordinances or regulations, and applicants must get the approval of the appropriate government authority prior to Department analysis of the application (**MCA** 75-15-104). If the proposed sign site is unzoned, it is the right-of-way agent's responsibility to determine whether the area qualifies for the placement of a sign and the issuance of a permit. It is the responsibility of the applicant to identify the activity presumed to qualify the area for the placement of a sign.
- Form RW-816 A1OAC, Schedule A, completed in detail and attached to the application. A photograph, if the sign is existing, detailed sketch or scale drawing of the proposed sign should also be attached. The applicant must also place a stake or other easily identifiable marker at the proposed sign location to assist Department personnel in finding the proposed sign site).

- landowner signature and date of signature. The landowner must sign and date the application. By doing so, the landowner agrees to allow authorized Department personnel access to the property for sign inspection and/or removal purposes (**MCA 75-15-131**). It is advisable to request a copy of any written land lease agreement between the sign owner and landowner. The Department will advise the parties that disclosure of the monetary terms of their agreement is not a Department requirement.
- applicant signature and date of signature.

If an application is incomplete, the right-of-way agent returns it to the applicant together with an explanation of the deficiencies. See Incomplete Outdoor Advertising Permit Application (Form RW-830OAC) (**Mont. Admin. R. 18.6.212**).

Upon receipt of a complete application and nonrefundable application fee, the District right-of-way agent deposits the funds and completes a receipt (Form RW-4OAC). The agent places 1 copy of the receipt with the application and sends a copy to the applicant along with a cover letter acknowledging receipt of the application. See Outdoor Advertising Permit Application Received (Form RW-833OAC).

9-2.9.2 Fees

A check payable to the Montana Department of Transportation in the amount of the nonrefundable inspection fee must accompany the sign permit application.

A nonrefundable inspection fee in the amount of \$100.00 will be assessed for each off premise outdoor advertising sign erected within any area subject to state control by the Department.

The initial permit fee shall be $\frac{24}{36}$ of the three-year renewal fee plus $\frac{1}{36}$ of said renewal fee for each full month remaining in each calendar year following application approval.

Signs shall be assigned a permit number and given a permanent identification plate that must be attached to the structure and may be renewed every three years thereafter upon payment of the renewal fee as follows:

- 20 cents per square foot for signs 376 feet or more.
- If the sign structure has multiple sign faces, the renewal fee is based on the total square footage of the sign area; or
- \$75.00 for signs with a face (s) of 375 square feet or less.

If a sign contains advertising for products and services relating to activities that are conducted on-premise as well as products and services that are not available on-premise, the entire sign structure is subject to permitting requirements.

(*Mont. Admin. R.* 18.6.211)

9-2.9.3 Field Inspection

Following analysis of the application, the right-of-way agent completes a field inspection of the proposed sign site. It may be advisable to contact the applicant, who may want to be present during the field inspection. The agent should photograph the area of the qualifying activity for review and documentation purposes. Completion of a Field Inspection Form (Form RW-2OAC); along with the information in the application, will give the right-of-way agent adequate information to recommend approval or denial of the application.

Upon completion of the application analysis and field inspection, the agent makes a recommendation to the coordinator to approve or deny the application. The right-of-way agent forwards the recommendation, along with the original application and copies of all attendant documents, to the coordinator in Helena.

9-2.9.4 Determination of Approval/Denial of Permit Application

The coordinator makes the final determination of approval or denial of an application for a sign permit. In the event that there is an unresolved disagreement between the agent and the coordinator on the applicable rules and regulations, the coordinator will convene the ad hoc review committee described in Section 9-2.2.

In the event that the Department denies an application, an applicant who does not agree with the Department's decision may petition the Department for an administrative hearing pursuant to the provisions of the ***Montana Administrative Procedures Act (MAPA)***. The letter to the applicant denying a permit application must advise the applicant that a declaratory ruling may be requested pursuant to the provisions of ***MAPA***. See suggested letter Denial of Outdoor Advertising Permit Application (Form RW-831OAC).

9-2.10 Renewal of Sign Permits (Conforming and Nonconforming Signs)

Although the Department plans, as a courtesy, to remind sign owners to apply for the renewal of permits, failure to issue this notice will not excuse the sign owner from the owner's duty to renew a permit. Failure to submit the mandatory sign permit renewal fee within 30 days after expiration of the permit, or 30 days after receipt of the notice to renew the permit, may result in cancellation of the permit (**Mont. Admin. R.** 18.6.214).

9-2.10.1 Renewal Notices

The Information Services Bureau calculates the appropriate renewal fees and prints renewal notices. The notices are sent from the Special Programs Section in Helena. The renewal notices request payment by permit owners to the Department's Accounting Services Bureau. Payments are recorded in the Department's Outdoor Advertising database and each permit is updated accordingly. The renewal notice indicates that, if the permittee is no longer the owner of the permit, the permittee should forward the notice to the current owner. In the event the Department does not receive the renewal fee within the required time, it will cancel the permit or, for cause, grant an extension. See suggested Letter of Cancellation, Cancellation of Outdoor Advertising Permit (Form RW-828OAC) or Extension, 15 day Notice for Permit Renewal (Form RW-827OAC).

9-2.10.2 Renewal Permit Attachment

In the event that a sign with a renewed permit has a permit sticker, the Department will send the sign owner a permit plate to replace the sticker (**Mont. Admin. R.** 18.6.213). There is no charge for the initial permit plate for an existing permitted sign. It is the responsibility of the sign owner to see that the proper permit plate is continuously attached to the sign or device for which it was issued. It is not the right-of-way agent's responsibility to physically attach the permit plate.

The permit plate must be attached to the sign or the supporting structure near the lower left corner of the sign, or supporting pole/beam, facing traffic. The Department can cancel a permit if the permit plate is affixed to the wrong sign or is otherwise in violation of requirements and if the deficiency continues for more than 30 days.

If the original permit plate has been lost or destroyed, the Department may issue a substitute permit plate upon payment of a \$10 fee. In the event that a substitute permit plate is requested, the right-of-way agent will notify the Coordinator, who will order a replacement plate for delivery to the District. The District will send the replacement plate to the sign owner (**Mont. Admin. R.** 18.6.213(5)).

9-2.11 Transfer of Permit Ownership

Ownership of a sign permit will not be transferred without the expressed written consent of the permit holder(s). The current permit holder(s) must sign and notarize the document transferring the permit.

9-2.12 Permit Cancellation

Permits cannot be canceled except by written request of the permit holder(s) or by violations of the provisions of the outdoor advertising regulations. The current permit holder(s) must sign and notarize the document requesting cancellation of a permit.

9-3 ENFORCEMENT

9-3.1 Sign Surveillance

The Department will conduct continuing surveillance of Montana's NHS and Primary Highway Systems to properly control outdoor advertising. The Outdoor Advertising Program within the Special Programs Section of the Right-of-Way Bureau is responsible for proper outdoor advertising control surveillance. This responsibility includes performing a complete and detailed inspection of all routes each year. Districts must submit an annual report to the coordinator on or before December 1 of each year, using the Unlawful Sign Report (Form RW-834OAC). The surveillance program is intended to identify unlawful advertising and/or substantive changes in permitted signs.

9-3.2 Removal of Unlawful Signs

When a new sign appears in an area that is controlled by the Department and no permit has been issued for the sign, the following procedure applies:

1. District personnel will prepare a Sign Inspection Record (Form RW-3OAC) and submit it to the coordinator with a request to send an Unlawful Sign Notice (Form RW-825OAC). The coordinator will send the letter to the sign owner and the landowner requesting their removal of the sign or submission of a request for a hearing within 45 days. The Unlawful Sign Notice must be mailed by certified mail with a return receipt requested. The certified number must be identified on the letter and the return receipt form (**MCA** 75-25-131).
2. If the certified notice is returned undeliverable, District personnel will post a notice on the sign structure. The date of the notice is the day the notice is attached to the structure.
3. If the sign is in a conforming area, the coordinator advises the sign owner that the sign may qualify for a permit under the **Outdoor Advertising Act**, and that the Department will consider an application if it is received before expiration of the 45-day period.
4. The coordinator and District personnel must document any personal contact with the sign owner or the landowner, creating a written history that provides the initial contact, the date the unlawful sign was observed and any pertinent information about the sign and sign owner.

5. If the Department does not receive a request for an administrative hearing on the proposed sign removal within the 45-day notice period, the following procedures apply:
 - a. Prior to removal of the sign, the coordinator or a designee notifies the sign owner and the landowner that the Department intends to remove the sign and the approximate date of removal. The Department also advises them that MDT is allowed by law to enter upon the land and remove the sign structure. The notification can be done by certified mail or telephone. If the notice is transmitted by telephone, the telephone conversation must be documented by a memorandum to the file. If there is probable cause that the sign owner or landowner will resist removal of the sign structure, the OAC coordinator will contact Legal Services for advice on handling the situation (**MCA 75-15-131**).
 - b. If it is determined that there is probable cause for resistance, the Department may either seek judicial relief or request protection from local law enforcement. The Department may enlist either area maintenance forces or a private contractor to remove the sign structure. In all cases, the coordinator or a designee will accompany the maintenance personnel or the private contractor at the time the sign is removed.
 - c. In the event that the Department requests assistance from the District Maintenance Chief, the coordinator must send a memorandum (Advertising Sign Removal (Form RW-824OAC) to the District Administrator, with a copy to the District Maintenance Chief, and a copy of the Sign Inspection Record (Form RW-3OAC) with a photograph of the unlawful sign.
 - d. If the sign is removed by the Maintenance Division, the Chief will inform the coordinator, in writing, of the removal of the sign. The Maintenance Chief also will prepare a statement of costs of removal of the sign. It is the coordinator's responsibility to send the statement of costs to the sign owner and landowner along with a letter requesting payment. It is important to state in the transmittal letter that the sign owner and landowner are jointly and severally responsible for the costs of sign removal (**MCA 75-15-131(4)**).
6. If the Department receives a request for an administrative hearing on the proposed sign removal within 45 days, the following procedures apply:

- a. The coordinator notifies Legal Services by memorandum that the request was received. The memorandum should provide a brief history of events and reasons for the determination that the sign is unlawful. Attached to the memorandum should be:
 - a completed Sign Inspection Record (Form RW-3OAC), with photos of the sign;
 - a copy of Unlawful Sign notice (Form RW-825OAC) and return receipt showing proof of service by certified mail;
 - a sketch showing the location of the unlawful sign; and
 - copies of all correspondence between the Department and the sign owner or landowner.
- b. If a request for administrative hearing is received, District personnel will not correspond further with the sign owner or landowner. Any calls, correspondence or other incidents involving the unlawful sign must be referred to the coordinator.
- c. The coordinator will transmit all documents, along with a request for an administrative hearing, to Legal Services. The case then becomes the responsibility of Legal Services, and any action by the coordinator or District personnel thereafter will only be at the request of representatives of Legal Services.

9-3.3 Legal Procedures

Legal Services is responsible for making arrangements for an administrative hearing pursuant to the provisions of **MAPA**. A hearing examiner (appointed through the Agency Legal Services Bureau, Legal Services Division, Department of Justice, or an attorney, licensed in Montana, under contract with the Department) will conduct the hearing.

After conducting an administrative hearing, the hearing examiner enters a proposed order for Transportation Commission consideration. The sign owner and landowner are notified of the proposed order and may contest the order by oral argument before the Commission.

Although the proposed order may provide for the removal of the unlawful advertising structure, the Department does not have the authority to remove the structure before the Commission's action is final. The Commission's final decision (order) will be the final action under **MAPA** on the legality of the advertising structure. This final order determines the procedures that will be followed by the Department in removing the structure.

The sign owner, landowner, coordinator and District are notified of the final Commission order. In the event that the final order determines that the structure is unlawful and must be removed, the sign owner and landowner are given 30 days to remove the structure. Within that period of time, the sign owner and landowner may petition for judicial review with the appropriate District Court. The Department will not take any action to remove the sign until the Outdoor Advertising Control Coordinator approves the action and the Department confirms that neither the sign owner nor the landowner has petitioned the District Court for judicial review. If a petition for judicial review is filed, the Department will refrain from removing the unlawful advertising structure until a final decision of the District Court is entered and all rights of appeal are exhausted.

9-3.4 Sign Structures that are Blank, Abandoned or in Disrepair

It is a violation of the conditions of a sign permit for a sign to be blank, abandoned or in disrepair for a period of 6 continuous months. When a violation occurs, the Department notifies the sign owner of the violation and requires remedial action within 45 days, as described below. If the sign owner fails to take corrective action, the Department will cancel the permit and take action to remove the sign pursuant to **MCA** 75-15-131. Conditions warranting action include the following:

1. Sign structures that have no face or that have faces without 100% advertising copy are considered blank. Blank is defined as all faces not leased, rented or otherwise occupied by an advertising or public service message. The sign owner is not prohibited from noticing the sign for rent or lease; however, the sign will be considered blank while being noticed for rent or lease.
2. Sign structures are considered abandoned if the sign has not been erected or has been removed, or if the sign owner fails to pay the appropriate sign permit fees.
3. A sign may be determined to be in disrepair if the structure is unsafe or if the sign face is unreadable or not visible to the traveling public.

When Department personnel observe a sign that is blank, abandoned or in disrepair, a Right-of-Way Agent will take a photograph (dated if possible) of the sign and complete a Sign Inspection Record (Form RW-3OAC). Six months from the date the sign was observed, the District will make another inspection; if the sign is still blank, abandoned or in disrepair, the District will prepare a notice of violation and send it to the sign owner and landowner by certified mail with return receipt requested. See suggested letter of violation Forms RW-821OAC, RW-822OAC, RW-823OAC and RW-826OAC.

If the sign owner or landowner does not take remedial action within 45 days after the sign owner's and landowner's receipt of the notice of violation, the Department will cancel the permit. The Department will send the sign owner and landowner a notice of unlawful advertising. Thereafter, the Department will follow the procedures described in Sections 9-3.2 and 9-3.3.

9-3.5 New Signs Not Erected Within 6 Months of Permit Issuance

Within 6 months of the date of issuance of the permit, the sign owner must:

- erect the sign structure,
- attach the permit plate to the sign structure,
- attach advertising materials or copy to the sign face, and
- provide written verification to MDT of the sign erection, see Permit Application (Form RW-A1OAC, Schedule C).

(Mont. Admin. R. 18.6.221)

If the sign owner does not complete these actions, the Department will cancel the permit. The right-of-way agent sends the sign owner a Cancellation of Outdoor Advertising Permit letter (Form RW-832OAC) by certified mail with return receipt requested. The cancellation is final and the sign owner does not have rights of appeal through **MAPA**.

9-3.6 Violation of Access Control Fence

Erection or maintenance of a sign through, over or across an access control fence or line is prohibited. When the District discovers and documents this activity, the

Department may cancel the permit. In these cases, the District notifies the sign owner and landowner of the cancellation by certified mail with a return receipt requested. The District must document the violation with a written history and photographs prior to sending the notice. In these cases, the Department also follows the procedures described in Sections 9-3.2 and 9-3.3.

9-3.7 Choice of Remedy for Unlawful Sign Structures

In cases involving an unlawful outdoor advertising structure, the Department has to elect between treating the structure as an encroachment under the encroachment Statutes and treating it as unlawful advertising under the ***Outdoor Advertising Act***. If the facts of the case clearly establish an encroachment, then the structure should be treated as an encroachment and not as unlawful advertising under the ***Outdoor Advertising Act***. Similarly, if the facts do not establish an encroachment, the Department has no remedy for removal of the structure unless the facts clearly establish that the structure is unlawful advertising under the ***Outdoor Advertising Act***. Once the Department makes its election, it must pursue that remedy to its conclusion. The Department may not pursue the remedies of encroachment and unlawful advertising at the same time. If the Department determines that it will treat the unlawful sign structure as an encroachment, the Department pursues its remedy under the provisions of ***MCA*** Title 60, Chapter 6, Part I.

9-4 OTHER SIGNS

9-4.1 Special Signs

Special signs are allowed outside of zoned and unzoned commercial and industrial areas, subject to the provisions set forth in this Section. With the exception of slat-type rural/residential directory signs (signs not to exceed 900 mm x 200 mm (36 in x 8 in)) and political signs, all special signs are subject to permit requirements, including payment of the nonrefundable initial application fees set forth in **Mont. Admin. R. 18.6.211(1)**. The Department waives the renewal fees set forth in **Mont. Admin. R. 18.6.211(2)**.

By requiring permits on special signs, the Department can inventory all signs that are visible from the controlled routes. Although there are no specific spacing requirements in the special sign regulations, it is important that applicants address visibility and safety requirements prior to permit approval.

The types of signs qualifying as special signs and conditions applicable to those signs are described in the following sections.

9-4.1.1 Church and Service Club Signs

A church, service club or youth organization that conducts regular meetings may erect and maintain signs that provide the name of the organization and the time and place at which regularly scheduled meetings are held, subject to the following criteria:

1. Not more than a total of 4 signs may be erected by any 1 group, of which no more than 3 signs can face in the same direction of travel.
2. Signs may not be located more than 8 km (5 miles) from where the meetings or functions are regularly held.
3. The size of each sign cannot exceed 0.75 m² (8 ft²).
4. The activity must be a regularly scheduled daily, weekly, monthly or quarterly meeting, function or gathering that members of the traveling public will be likely to want to find and attend.
5. The organization must obtain a permit for each church and service club sign, and payment of the initial nonrefundable application fee is required. The Department waives renewal fees. Public forests, public playgrounds and designated scenic

areas are considered conforming areas with respect to the siting and erection of these signs.

6. This part does not apply to advertising of annual events, including county fairs or activities, that are continuously in existence. Further, it does not cover advertising of sports events or other activities for which an admission fee is charged.

(**Mont. Admin. R.** 18.6.241 and 18.6.211)

9-4.1.2 Ranch and Rural Directional Signs

In rural residential areas, the Department allows slat-type directory signs at the outer edge of the right-of-way of the intersecting roadway, giving the name only. Each slat is not to exceed 200 mm x 900 mm (8 in x 36 in). These signs do not require a permit, and no application or fees are required (**Mont. Admin. R.** 18.6.242(1)).

In cases where operations do not abut the highway but have access via a non-public access road across other ownerships, directional signs may be located along the roadway leading to the operation. The sign may bear the name of the operation or owner and the distance to headquarters, but will not include any advertising of services or products. A logo of the operation or registered brand may be allowed on the sign. A permit must be obtained for each sign, and payment of the initial nonrefundable application fee is required. The renewal fees for the signs are waived.

Signs may be erected only along the Primary Highway System or that portion of the NHS that was formerly a part of the Federal-aid Primary Highway System. The signs cannot:

- be erected or maintained within the highway right-of-way;
- exceed 3.0 m² (32 ft²) in area, including border and trim, but excluding base or apron, supports and other structural members;
- exceed 3.6 m (12 ft) in length; and/or
- exceed a maximum height for the sign structure, including the sign face, of 9.0 m (30 ft) as measured at a right angle from the surface of the roadway at the centerline of the highway.

(**Mont. Admin. R.** 18.6.242 and 18.6.211)

9-4.1.3 Cultural Signs

Signs or displays advertising cultural exhibits of nonprofit historical or arts organizations (nonprofit museums or art exhibits) may be erected and maintained within 200 m (660 ft) of the nearest edge of the right-of-way of a controlled route. An application for an outdoor advertising permit must be submitted and payment of the initial nonrefundable application fee is required. All requests for cultural signs must be sent to the coordinator to commence the procedures for determination of eligibility. If a permit is issued, the renewal fees for the signs are waived (*Mont. Admin. R.* 18.6.244 and 18.6.211). Cultural signs are subject to the following criteria:

1. Signs will not exceed 13.5 m² (150 ft²), with a maximum height of 6.0 m (20 ft) and a maximum length of 6.0 m (20 ft). All dimensions include border and trim but exclude supports.
2. Signs may be illuminated.
3. No sign may be located within 600 m (2,000 ft) of an interchange or intersection at grade along the Interstate System, or within 600 m (2,000 ft) of a rest area, parkland or scenic area.
4. No 2 signs facing the same direction of travel will be spaced less than 1.6 km (1 mile) apart.
5. Not more than 3 signs pertaining to the same activity and facing the same direction of travel may be erected along a single route approaching the activity.
6. Signs located adjacent to the Interstate system must be within 120 km (75 miles) of the activity, and signs located adjacent to the Primary Highway System must be within 80 air miles (50 air miles) of the activity.
7. The message on cultural signs is limited to identification of the attraction or activity and directional information useful to the traveler in locating the attraction, including mileage, route numbers or exit numbers. Descriptive words or phrases and pictorial or photographic representations of the activity or its environs are prohibited.
8. Privately owned activities or attractions eligible for cultural signing are limited to nonprofit historical and arts organizations. To be eligible, privately owned attractions or activities must be nationally or regionally known and of outstanding interest to the traveling public.

The following signs do not qualify as cultural signs and are prohibited:

- signs advertising activities that are illegal under Federal or State laws and regulations;
- signs that obscure or interfere with official traffic signs or that obstruct or interfere with the driver's view of approaching, merging or intersecting traffic;
- signs that have been erected or maintained on trees or painted or drawn on rocks or other natural features;
- signs that are obsolete, unsafe or in disrepair, or that move or have moving parts; and
- signs located in rest areas, parklands or scenic areas.

MDT makes the determination of eligibility for each attraction or activity seeking a cultural sign. In making the determination, the Department will, when deemed necessary, avail itself of the experience and knowledge of selected groups in the specific type of attraction or activity being considered. These groups include, but are not limited to, commissions, boards, other agencies and/or other State departments. The Department's determination of eligibility is subject to review by the Transportation Commission upon written request of any interested person. An interested party must request a review within 30 days of notification of the determination by the Department to the privately owned activity or attraction. The Commission will provide the interested person or persons with at least 30 days notice of the time and place where the determination of eligibility will be reviewed, and the Commission will accept oral or written comments if they are submitted within the time allowed.

9-4.1.4 Noncommercial Signs

A permit must be obtained for each noncommercial sign. If a noncommercial sign is located on the real property of the sign owner, it is considered an on-premise sign and is not subject to the provisions of this Section. Payment of the initial nonrefundable application fee is required for noncommercial signs. The renewal fees for this type of sign are waived (**Mont. Admin. R.** 18.6.245 and 18.6.211). Qualifying noncommercial signs, and the conditions applicable to them, are described below:

1. *Welcome to community signs:*

- will not be erected or maintained that exceed 9.0 m² (100 ft²) in area, including border and trim, but excluding base or apron, supports and other structural members;
- will not exceed 3.6 m (12 ft) in length or 9.0 m (30 ft) in height when measured at a right angle from the surface of the roadway at its centerline;
- will not exceed more than 2 signs for each community and will not be located more than 1.6 km (1 mile) from the outer edge of the community; and
- may be placed outside of zoned and unzoned commercial or industrial areas, except they may not be placed in public forests, public playgrounds and designated scenic areas.

2. *Public service signs:*

- will not be erected or maintained that exceed 2.9 m² (32 ft²) in area, including border and trim, but excluding base or apron, supports and other structural members;
- will not exceed 3.0 m (10 ft) in length or 4.5 m (15 ft) in height when measured at a right angle from the surface of the roadway at its centerline; and
- may be placed outside of zoned or unzoned commercial or industrial areas.

9-4.1.5 Political Signs

Because of the temporary nature of political signs, there are no permit fee requirements. Signs promoting political candidates or issues:

- will not be erected or maintained within the highway right-of-way, on right-of-way fences or on public utility poles;
- will not be erected or maintained prior to 90 days before the applicable election; and
- will be removed within 30 days following the applicable election.

If the Department observes political signs in violation of this Section, it will immediately remove them. In the event that the Department does remove signs, it will make an

attempt to contact the appropriate candidate or group to advise them of the sign removal and where the sign may be retrieved.

(*Mont. Admin. R.* 18.6.246)

9-5 DEFINITIONS

9-5.1 Sources

The 2 primary sources for definitions of the terms used in this chapter are **MCA 75-15-103** and **Mont. Admin. R. 18.6.202**. In order to identify the applicable source, each definition is followed by a reference. Statutory references for definitions found in **MCA** Section 75-15-103 are designated by **MCA 75-15-103**. Definitions derived from **Mont. Admin. R. 18.6.202** are followed by **Mont. Admin. R. 18.6.202**.

9-5.2 Definitions

When used in this Chapter, words and terms have the following meanings:

1. Advertising Device. Any outdoor sign, display, device, figure painting, drawing, message, placard, poster, billboard, structure or any other contrivance that is designed, intended, or used to advertise or to give information in the nature of advertising and that has the capacity of being visible from the main-traveled way of any Interstate or Federal-aid Primary Highway System. Advertising device is synonymous with sign (**Mont. Admin. R. 18.6.202**).
2. Mont. Admin. R. The **Administrative Rules of Montana**.
3. Commercial or Industrial Activities. Activities that are generally recognized as commercial or industrial by zoning authorities in this State, except that none of the following activities are considered commercial or industrial:
 - agricultural, forestry, grazing, farming and related activities, including wayside fresh produce stands;
 - transient or temporary activities;
 - activities that are not visible from the main-traveled way;
 - activities that are conducted in a building principally used as a residence;
 - railroad tracks and minor sidings; and
 - activities more than 200 m (660 ft) from the nearest edge of the right-of-way (**MCA 75-15-103**).

4. Commercial or Industrial Zone. An area that is used or reserved for business, commerce or trade pursuant to comprehensive local zoning ordinances, regulations or enabling State legislation, including highway service areas lawfully zoned as highway service zones, where the primary use of the land is or is reserved for commercial and roadside services, other than outdoor advertising, to serve the traveling public. Areas temporarily zoned as commercial or industrial by an interim regulation or map adopted as an emergency measure pursuant to **MCA 76-2-206** are not covered by this definition (**MCA 75-15-103**).
5. Commission. The Transportation Commission of Montana (**MCA 75-15-103**).
6. Conforming Sign. A sign that was lawfully erected and that complies with spacing, zoning, size, lighting and all other requirements under the **Outdoor Advertising Act** and the outdoor advertising regulations (**Mont. Admin. R. 18.6.202**).
7. Controlled Routes. All highways included within the NHS as designated by the Commission and approved by the Secretary of Transportation as provided in Title 23, **United States Code** and all remaining primary routes within the system as of June 1, 1991.
8. Department. The Montana Department of Transportation (MDT) (**MCA 75-15-103**).
9. Federal/State Agreement. The agreement that was entered into on January 27, 1972, by and between the United States of America, represented by the Secretary of Transportation and the State of Montana, through its Department of Transportation to promote the reasonable, orderly and effective display of outdoor advertising while remaining consistent with the national policy to protect the public investment in Interstate and Primary highways, to promote the safety and recreational value of public travel and to preserve the natural beauty. At a minimum, the State of Montana will implement and carry out the provisions of 23 **United States Code**¹³¹ and the national policy in order to remain eligible to receive the full amount of all Federal-aid highway funds apportioned under 23 **United States Code** 104 (**Mont. Admin. R. 18.6.202**).
10. Information Center. An area or site that is established or maintained at safety rest areas for the purpose of informing the public of places of interest within the State and providing other information that the Commission may consider desirable (**MCA 75-15-103**).

11. Interchange or Intersection. Those areas and their approaches where traffic is channeled off or onto an Interstate route, including the deceleration lanes or acceleration lanes from or to another Federal, State, county, city or other route (**MCA 75-15-103**).
12. Interstate System. That portion of the National System of Interstate and Defense Highways located within this State as officially designated or as may be designated by the Commission and approved by the Secretary pursuant to the provisions of Title 23, **United States Code**, "Highways" (**MCA 75-15-103**).
13. LOGO Sign. A motorist service guide sign that consists of a large sign with smaller company logo signs placed on it. The purpose of a LOGO sign is to provide travelers with information about nearby essential motorist services. This type of sign is authorized under, and governed by, the FHWA **Manual on Uniform Traffic Control Devices** and the **MDT Traffic Engineering Manual**.
14. Main-Traveled Way. The Interstate and Primary Highway System on which through traffic is carried (**Mont. Admin. R. 18.6.202**).
15. Maintain. To allow to exist, subject to the provisions of this part (**MCA 75-15-103**).
16. Maintenance. To repair, refurbish, repaint or otherwise keep an existing sign structure in a state suitable for use (**MCA 75-15-103**).
17. MAPA. The **Montana Administrative Procedures Act**.
18. MCA. The **Montana Code Annotated**.
19. NHS. The National Highway System.
20. Noncommercial Sign. A sign that does not display a commercial message. For the purpose of this rule, only "Welcome to" community and "Public Service" signs such as D.A.R.E. or ABATE are considered noncommercial. MDT will make the determination of a noncommercial sign designation on a case-by-case basis (**Mont. Admin. R. 18.6.202**).
21. Nonconforming Sign. A sign that was lawfully erected but that does not comply with the provisions of State law or State regulations passed at a later date, or that fails to comply with State law or State regulations due to changed conditions. Illegally erected or maintained signs are not nonconforming signs (**Mont. Admin. R. 18.6.202**).

22. Off-premise Signs. All signs that are not on-premise signs as defined by “on-premise sign” (**Mont. Admin. R.** 18.6.202).
23. On-premise Sign. Signs that are erected on property for the sole purpose of advertising its sale or lease or of advertising an activity that is conducted on the property. To qualify as an on-premise sign, a sign advertising an activity conducted on the property must be located on the land that is actually used or occupied by the activity. The extent of the property used for the activity includes its buildings, parking area and incorporated landscaped areas, but does not include vacant land, land used for unrelated activities, or land that is separated by other ownerships or roadways. If the activity is more than 200 m (660 ft) from the nearest point of the highway and is accessed by an approach and road from the highway, any sign, landscaped area or other appurtenance associated with the activity that is adjacent to the approach and access road will not be used to qualify off-premise signs (**Mont. Admin. R.** 18.6.202).
24. Outdoor Advertising. Any outdoor sign, display, light, device, figure, painting, drawing, message, plaque, poster, billboard or other structure that is designed, intended or used to advertise or inform and that is visible from any place on the main-traveled way of the Interstate or Primary Highway Systems (**MCA** 75-15-103).
25. Primary System. That portion of connected main highways as officially designated or as may be designated by the Commission and approved by the Secretary pursuant to the provisions of Title 23, **United States Code**, “Highways” (**MCA** 75-15-103).
26. Safety Rest Area. An area or site that is established and maintained within or adjacent to the right-of-way, by or under public supervision or control, for the convenience of the traveling public (**MCA** 75-15-103).
27. Secretary. The Secretary of the United States Department of Transportation (**MCA** 75-15-103).
28. Sign Face. That portion of the sign structure that is visible from a single direction of travel and available for advertising. It includes border and trim, but excludes the base or apron, supports and other structural members. The total area of all sign faces may also be referred to as the “sign area” (**Mont. Admin. R.** 18.6.202).
29. Sign Structure. An advertising device including the sign face, base or apron, supports and other structural members (**Mont. Admin. R.** 18.6.202).

30. TODS. (Tourist-Oriented Directional Sign) A special sign that carries advertising of interest to travelers along rural conventional roads. This type of sign is authorized under, and governed by, the FHWA ***Manual on Uniform Traffic Control Devices*** and the ***MDT Traffic Engineering Manual***.
31. Unzoned Commercial or Industrial Area. An area that is not zoned by State or local law, regulation, or ordinance that is occupied by 1 or more industrial or commercial activities, other than outdoor advertising, on the lands along the highway for a distance of 180 m (600 ft) immediately adjacent to the activities (***MCA 75-15-103***).
32. Urban Area. An urbanized area or place, as designated by the United States Bureau of the Census, that has a population of 5,000 or more and that is within boundaries fixed by the Department. The boundaries must, at a minimum, encompass the entire urban place designated by the Bureau of the Census (***MCA 75-15-103***).
33. Visible. Capable of being seen and legible without visual aid by a person of normal visual acuity (***MCA 75-15-103***).

9-6 REFERENCES

1. ***Administrative Rules of Montana***, 18.6.201 through 18.6.270, *Outdoor Advertising Control*.
2. ***Administrative Rules of Montana***, 18.7.301 to 18.7.336, *Motorist Information Signs*.
3. ***Manual on Uniform Traffic Control Devices***, Federal Highway Administration, Millennium Edition, 2000.
4. ***Federal Highway Beautification Act***, 23 ***United States Code*** 131.
5. ***Montana Administrative Procedures Act, Montana Code Annotated***, 2-4-101 through 2-4-711.
6. ***Montana Motorist Information Act, Montana Code Annotated***, 60-5-501 through 60-5-527, *Motorist Information Signs*.
7. ***Montana Outdoor Advertising Act, Montana Code Annotated***, 75-15-101 through 75-15-134, *Outdoor Advertising Signs*.
8. ***Montana Code Annotated***, 60-2-125, *Definitions*.
9. ***Montana Code Annotated***, Title 60, Chapter 6, Part 1, *Removal of encroachments by state authorities*.
10. ***Montana Code Annotated***, 61-8-210, *Display of unauthorized signs, signals, or markings*.
11. ***Montana Code Annotated***, 76-2-206, *Interim zoning or map regulation*.
12. ***Montana Department of Transportation Traffic Engineering Manual***, Part III, Section 18.7, 1996.
13. ***United States Code***, Title 23, *Highways*.
14. 23 ***United States Code***, 104, *Apportionment*.